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SUBJECT: NEW TAX EXEMPTION RULES FOR NON-PROFIT ORGANIZATIONS

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¶1. (SBU) Summary: Japan passed a new tax exemption law in 2006 and is finalizing implementation now. The new law, effective December 1, is expected to make the process of getting tax exempt status more transparent and more in line with policies elsewhere in the world. Opinions on the new regulation are divided. A retired Japanese official noted the new regulation has provoked opposition from a cadre of retired Japanese bureaucrats who have grown accustomed to tax exemption loopholes. The new regulations will break the stranglehold of the old boys' network, opined a Temple University law professor. End summary.

MAKING ROOM FOR INTERNATIONAL PUBLIC ORGANIZATIONS

¶2. (SBU) GOJ's new tax exemption law goes into effect December 1 and may break the long-held image of Japan as being hostile to foreign NGOs, a Temple University law professor told EconOff October 21. Under Japan's previous tax-exemption law, only four foreign entities qualified. About 17,000 organizations had tax exempt status in Japan under the previous law, compared with 1.5 million registered 501(c)(3) organization in the U.S.

¶3. (SBU) The law, passed in 2006, commissioned an independent board in April 2007 under the cabinet -- the Public Interest Corporation Commission (PICC). The PICC will determine which organizations, domestic or foreign, qualify for tax exempt status under the revised rules. One consideration is whether foreign organizations enjoy tax exempt status in their home countries. Under Japan's previous law, organizations like UNICEF would not be guaranteed tax exempt status, the law professor explained. The previous system was capricious and little more than an "old boys' network," said the law professor.

BRINGING DOWN THE STATUS QUO

¶4. (SBU) While the new legislation improves the likelihood international organizations will receive tax exempt status, it likely also will exclude some Japanese organizations that qualify under the previous law, a retired GOJ official and current not-for-profit director said. Previously, organizations were given the tax exempt status based on who they knew and not on the basis of their institutional functions, according to the law professor. The new rules, however, according to the professor, require tax exempt organizations to report to the GOJ annually, much the same way NGOs in the U.S. do. This additional level of scrutiny also has the "old

boys" up in arms, according to the retired GOJ official.

PHASED-IN IMPLEMENTATION

15. (SBU) As Japan begins implementing the the new rules, officially known as Act No. 49 on Authorization of Public Interest Incorporated Associations and Public Interest Incorporated Foundations, local non-profit organizations will have up to three years to formally declare non-profit status and to adapt their internal operations and accounting procedures accordingly. The PICC has been charged with reviewing reporting by public interest organizations and will conduct periodic on-site inspections to ensure compliance with the revised rules.

SCHIEFFER